vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3618 OF 2003
IN
SUIT NO.3842 OF 2003

M/s.Video Master ... Plaintiffs

V/s.

M/s.ANAS Films & Ors. ... Defendants

Ms.Agnes Baradia i/b M/s.Thakore Jariwala & Associates for Plaintiffs
Ms.V.D. Jaisingh for Defendant No.2

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 23, 2006**

P.C.:

. It is the case of the Plaintiff in this Motion that the Defendants have infringed the copyrights assigned to them by producer i.e., Defendant No.1, in respect of their film "Rang". The Plaintiffs have therefore sought an injunction against the defendants from: manufacturing, distributing or exhibiting videograms, cassettes, discs, tapes, etc or any other format, copies of the suit film throughout the contracted territories. The Plaintiffs have also prayed for an injunction restraining the Defendants from dealing with, disposing of and/or entering into any Agreements with any person or persons in respect of rights in respect of the suit films which are in breach of their rights and/or in any manner committing breach of the Plaintiffs' rights which have been assigned under the Agreement.

2. By way of ad-interim relief, prayer clause (a) of the Motion was granted by this Court on 12.12.2003.

3. The Plaintiff had entered into an agreement with Defendant No.1 whereby Defendant No.1 has assigned video copyrights to the plaintiffs. This contract is to be in existence for 21 years i.e., upto 2013. The territories included are the whole of India, Nepal, Bhutan and Sikkim.

4. It appears that an agreement was entered into on 16.4.2003 between Defendant Nos.1 and 2 under which Defendant No.1 sold/assigned the rights in the suit film "Rang" in favour of Defendant No.2. These rights included the video rights of this film include VHS video cassettes, Video Compact Disc, Digital Versatile Disc and all other video formats. This agreement is to be in existence for 7 years. An indemnity has also been given by the producer of the film in favour of Defendant No.1 indicating that he is the exclusive holder of the rights of the film.

5. Section 18 of the Copyrights Act clearly states that an owner of the copyright in an existing work continues to be the owner of only that part of the copyright of the work which is not assigned. Defendant No.1 having assigned the rights to the Plaintiff in respect of video format, these rights could not be

sold/assigned by Defendant No.1 during the pendency of the agreement i.e., upto 2013. The learned Counsel appearing for the Defendant No.2 submits that Defendant No.1 having executed an indemnity in favour of Defendant No.2, the plaintiffs should act against Defendant No.1 and not Defendant No.2.

6. Heard Counsel for the parties. Defendant No.1 has chosen to remain absent, though served. In my view, a case for confirming the ad-interim relief is made out. Further, the defendants must disclose the amounts earned by them by exploitation of the feature film "Rang". These statements be filed within four weeks from today. They must also disclose in this Court the details of the stocks of video cassettes, discs, etc of the feature film "Rang" within four weeks from today.

7. Motion is accordingly made absolute in terms of prayer clauses (a), (b), (c) and (d).